
TECHNICAL HANDBOOK FOR
ENVIRONMENTAL HEALTH AND ENGINEERING
VOLUME III - HEALTH FACILITIES DESIGN AND CONSTRUCTION
PART 25 - CONSTRUCTION PROCUREMENT

CHAPTER 25-4 MAJOR HEALTH FACILITIES GRANTS

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25-4.1 INTRODUCTION

In a memorandum dated June 22, 1995, the Assistant Secretary for Health removed the prohibition, imposed in 1982, on the use of grants to construct IHS facilities. Public Law (P.L.) 93-638, as amended by P.L. 103-413, Sections 102 [450f] and Section 107 [450k] of this Act allows the Secretary of Health and Human Services to make grants to any Indian tribal or tribal organization for -

(1) the development, construction, operation, provision, or maintenance of adequate health facilities or services including the training of personnel for such work, from funds appropriated to the IHS for Indian health services or Indian health facilities; or

(2) planning, training, evaluation or other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 103 [450g] of this Act.

This chapter addresses discretionary grants only. To be eligible to apply and receive a grant under this program the proposed facility must be on the Indian Health Service (IHS) Health Facilities Construction Priority List and appropriated funds must be available. The tribe may opt for grant funding of the design and construction phases or the construction phase only using plans and specifications developed by Engineering Services.

25-4.2 APPLICABLE LAWS AND REGULATIONS

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IHS regulations governing the administration of grants are found in the Indian Health Manual, Part 5, Chapter 19, Manual Exhibit 5-19, 3-B, "Legislative Mandates" and OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments.

25-4.3 OTHER REFERENCES

Supplemental policies and information on federally-assisted grants are contained in the documents below.

45 CFR, Part 92. Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Rule)

42 CFR, Part 36, Subpart H. Grants for Development, Construction, and Operation of Facilities and Services

45 CFR 74. Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Nonprofit Organizations, and Commercial Organizations; and Certain Grants and Agreements with States, Local Governments and Indian Tribal Governments

OMB A-87. Cost Principles for State, Local, and Indian Tribal Governments

P.L. 93-638, as amended.

Appendix 2, PHS Grants Policy Statement

Federally Assisted Guidelines, Chapter IV, Mandatory Requirements.

PHS Grants Administration Manual

25.4-4 OFFICE OF GENERAL COUNSEL OPINION

The Office of the General Counsel (OGC) issued memorandum dated April 17, 1995, titled "Construction and Title III of the Indian Self-Determination Act (ISDA)". Page 4., C., "Section 103 of ISDA", of this memorandum is cited below and provides clarification of the law as it pertains to construction grants.

Section 103(b) authorizes IHS to make grants to tribes for the construction of health care facilities.¹² Title to a facility constructed under a grant generally remains with the grantee...

... In the event that PHS permits IHS to use its authority to make grants for construction, it is important for IHS and the grantee

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to review the Federal requirements related to construction grants including requirements for Federally assisted construction. Listed below are some of the Federal requirements that we believe are applicable to section 103 grants:

42 CFR Part 36, Subpart H--Grants for Construction,

Chapter IV of the PHS Grants Administration Manual (GAM) on requirements for construction grants,

Part 140 of Chapter I of the PHS GAM on protecting the Federal interest in real property acquired with grant funds,

PHS Grants Policy Statement (especially note Appendix 2), HHS published guidelines for Federally assisted construction (HHS Technical Handbook, February 1994), and

45 CFR Parts 74 and 92.

¹²Such facilities may be characterized as Federally assisted construction.

A copy of the memorandum is provided in Appendix A.

25-4.5 DEFINITIONS

New Construction. The erection of a building, structure or facility, including the concurrent installation of equipment, site preparation, landscaping, associated roads, parking, and utilities, which provides new program space. New construction includes freestanding structures, additional wings, floors, enclosed courtyards or entryways, and any other way of providing usable program space. It also includes complete replacement of an existing facility.

Renovation. Construction required to change the interior arrangements including utilities and equipment, of an existing facility so that it may be more effectively utilized (e.g., for the delivery of health care services). Renovations governed by these guidelines may include work referenced by such terms as improvements, conversion, and reconversion.

Expansion of Existing Facilities. Expansion of facilities is considered as new construction as it provides usable program space that did not previously exist.

Other Definitions. IHS Technical Handbook, Chapter 1-7, and 45 CFR, Part 92, Subpart 92.3 - standard definitions for federal grants administration.

25-4.6 APPLICABILITY FOR CONSTRUCTION

Grants can be awarded only if there are sufficient funds appropriated. As stated in 25-4.1, grants awarded under this authority are

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discretionary, requiring agency approval. These grants are non-competitive and only projects that are approved and on the IHS Health Facilities and Construction Priority List will be eligible for consideration.

25-4.7 CONTACTS

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Dallas, TX 75202
(214)-767-3491

Engineering Services - Seattle
2201 Sixth Avenue
Main Stop RX24
Seattle, WA 98121
(206)-615-2452

25-4.8 IMPLEMENTING P.L. 93-638 GRANTS

Appendix B of this chapter outlines the steps to be followed from eligibility to grant award.

25-4.9 POST-AWARD GRANTS ADMINISTRATION

Post-award administration of IHS grants follows established HHS and PHS policy and procedural guidelines. Post-award policies for program officials and grantees are contained in the PHS Grants Policy Statement (April 1, 1994) and the PHS Grants Administration Manual, July 1, 1986. Additional information is provided in Indian Health Manual, Part 5, Chapter 19, "Grants and Cooperative Agreements Management."

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